



U.S. Department of Justice

United States Attorney  
Southern District of New York

86 Chambers Street  
New York, New York 10007

December 5, 2023

Via ECF

The Honorable Katharine H. Parker  
United States District Court  
Southern District of New York  
500 Pearl Street  
New York, New York 10007

Re: *United States of America v. Anthem, Inc.*, No. 20 Civ. 2593 (ALC) (KHP)

Dear Judge Parker:

This Office represents the United States of America in the above-referenced case. We write jointly with Defendant Anthem, Inc., pursuant to the Court's September 19, 2023 Scheduling Order (ECF No. 134), to suggest an agenda for the December 12, 2023 conference.

**Agenda for December 12, 2023 Conference**

I. The Government's Data RFPs

- a. The Government served its first set of RFPs (the "Data RFPs") on April 20, 2023. Anthem has made four productions in response to these RFPs and is collecting and reviewing data in anticipation of additional productions.
- b. On October 25, 2023, the Government narrowed its requested data fields related to the one outstanding Data RFP from 300 fields to 90 fields (representing approximately 2.8 billion claim lines of data), having previously reduced its request from 1600 fields to 300 fields in July.
- c. On December 1, 2023, Anthem informed the Government that it could begin a rolling production of the requested data in early to mid-January 2024, with the production of this data being completed by the end of March (or earlier, depending on the time needed to validate data of this scale).
- d. On December 4, 2023, the Government requested additional information from Anthem to assess their proposed production timeline. Anthem is currently working to provide that information to the Government.

II. The Parties' Non-Data RFPs

- a. The parties are currently negotiating searches and productions related to two sets of non-data RFPs: (1) Anthem's RFPs served on March 17, 2023; and (2) the Government's second set of RFPs served on May 16, 2023. Additionally, the Government served its third set of RFPs on October 30, 2023, Anthem served its

objections and responses to those RFPs on November 29, 2023, and the parties are scheduled to meet and confer regarding these requests.

- b. On October 10, 2023, Anthem provided a list of custodians whose records Anthem proposes to search for documents responsive to Requests Nos. 2–31 in the Government’s second set of RFPs. The parties met and conferred regarding Anthem’s proposed custodians on November 17, 2023, and the Government sent a response to Anthem’s proposed custodians on November 29, 2023. On December 1, 2023, Anthem provided the Government with high-level proposed search parameters on an RFP-by-RFP basis for the Government’s second set of RFPs. The parties are continuing to meet and confer on appropriate search parameters and custodians whose records will be searched in connection with the Government’s second set of RFPs.
- c. On November 9, 2023, the Government provided high-level proposed search parameters on an RFP-by-RFP basis, including proposed custodians, whose records the Government proposes to search for documents responsive to numerous requests in Anthem’s first set of RFPs. The parties met and conferred regarding the Government’s proposed search parameters and custodians on November 17, 2023 and December 1, 2023, and are continuing to meet and confer on appropriate search parameters and custodians whose records will be searched in connection with Anthem’s first set of RFPs.
- d. The parties have agreed to an interim deadline of January 19, 2024, for the parties to either: (1) agree upon search parameters to respond to one another’s outstanding RFPs; or (2) seek leave to file a discovery motion to resolve any issues regarding searches for documents responsive to the outstanding RFPs.

### III. Other Discovery Topics

- a. On October 20, 2023, the Government produced most of the documents that were both produced by the United States in *Poehling* and also used as exhibits during the depositions of United States witnesses in *Poehling*. The Government produced additional documents used as exhibits during the depositions of United States witnesses in *Poehling* on November 20, 2023.
- b. The Government served a Rule 45 subpoena on Cotiviti, Inc. on July 19, 2023. Cotiviti, Inc. made its first production to the Government on October 31, 2023. The Government is continuing to meet and confer with Cotiviti, Inc. about further productions.
- c. Anthem has provided notice of its intention to serve seven Rule 45 subpoenas since November 3, 2023.

- d. Pursuant to the Court's order, Anthem served a revised Rule 30(b)(6) notice on the Government on November 17, 2023. The parties have agreed to conduct a virtual Rule 30(b)(6) deposition on December 18, 2023, at 10:00 AM.

Respectfully submitted,

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